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AN ORDINANCE

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BY: COUNCILMEMBER DEBI STARNES

**AN ORDINANCE REZONING CERTAIN PORTIONS
OF THE GROUNDS OF THE EDWARD C. PETERS
HOUSE, LOCATED AT 179 PONCE DE LEON
AVENUE SO AS TO REMOVE THE OVERLAY
DESIGNATION OF LANDMARK BUILDING OR
SITE; AND FOR OTHER PURPOSES**

WHEREAS, the grounds and structure of the Edward C. Peters House, located at 179 Ponce deLeon Avenue as bounded by Ponce deLeon Avenue, North Avenue, Myrtle Street and Piedmont Avenue (the "Peters House Property") has been zoned with the overlay designation of Landmark Building or Site ("LBS") since 1989; and

WHEREAS, the owners of the Peters House Property challenged the overlay designation of the entire block as a part of lawsuit in the Superior Court of Fulton County captioned *SDH v. City of Atlanta*, CAFN 2000-cv-27385 and won the right to construct a certain project on a portion of the Peters House Property; and

WHEREAS, the entire block was again rezoned with the LBS overlay designation in 2002 such that the owners of the Peters House Property would be required to seek a Certificate of Appropriateness from the Atlanta Urban Design Commission before constructing any project other than that project which was the subject of CAFN 2000-cv-27385; and

WHEREAS, the owners of the Peters House Property have again challenged the LBS overlay designation of entire block in a lawsuit in the Superior Court of Fulton County captioned *SDH v. City of Atlanta*, CAFN 2002-cv-52517; and

WHEREAS, the Trust for Public Land is negotiating with the present owners of the Peters House Property for the possible purchase of the Peters House Property by a non-profit entity for an adaptive reuse of the site; and

WHEREAS, the owners of the Peters House Property have agreed in principle to consider suspending the litigation for the period of time required for the City Council to consider the rezoning of certain portions at the rear of the site to remove the LBS overlay and to continue negotiations for the purchase of the Peters House Property by a non-profit entity through an option agreement with the Trust for Public Land; and

WHEREAS, it is in the best interests of the City to create the maximum window of opportunity for the purchase of the Peters House Property by a non-profit entity for an adaptive reuse of the Peters House and the surrounding grounds; and

WHEREAS, the rezoning of the rear portion of the Peters House Property will allow the owners of the Peters House Property to develop said area free of the restrictions imposed by the Historic Preservation Ordinance; and

WHEREAS, the rezoning of the rear portion of the Peters House Property will only allow development free of the restrictions imposed by the Historic Preservation Ordinance to occur in a smaller area than that project which was the subject of CAFN 2000-cv-27385; and

WHEREAS, the City, through the Atlanta Urban Design Commission, will work with the owners of the Peters House Property, the Trust for Public Land, and the Georgia Trust for Historic Preservation to decide on a mutually acceptable area which can be rezoned with a minimum effect on the site, should the Trust for Public Land decline to exercise its option to purchase the Peters House Property.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS, as follows:

Section 1: That a portion of the real property located in Land Lot 14 of Fulton County Georgia, bounded by Ponce deLeon Avenue, North Avenue, Myrtle Street and Piedmont, also known as 179 Ponce deLeon Avenue, be rezoned to remove the overlay designation of Landmark Building or Site ("LBS") from that part of the site described by:

A rectangular parcel fronting on North Avenue between Piedmont Avenue and Myrtle Street, 150 feet deep (measured perpendicular to North Avenue); and (ii) a rectangular parcel fronting on Myrtle Street between North Avenue and Ponce de Leon Avenue, 100 feet deep (measured perpendicular to Myrtle Street).

Section 2: That the underlying C-2 zoning shall remain in effect for that part of the site from which the LBS overlay is removed and that the LBS overlay and the underlying C-2 zoning shall remain in effect for any portion of the property not specifically described for rezoning in Section 1.

Section 3: That this ordinance shall not be advertised for public hearing at the Zoning Review Board, until the owners of the property have executed an option agreement with the Trust for Public Land in substantially the form, which the said parties presently have under review.

Section 4: That as a condition of this rezoning being referred from the Zoning Committee to the Atlanta City Council for a final vote, any option held by the Trust for Public Land shall have expired.